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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,675	08/28/2003	Katsufumi Abe	Q77173	5668
23373	7590	01/10/2005	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			CORRIGAN, JAIME W	
			ART UNIT	PAPER NUMBER
			3748	

DATE MAILED: 01/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	10/649,675	Applicant(s)	ABE, KATSUFUMI
Examiner	Jaime W Corrigan	Art Unit	3748

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on 07 October 2004.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 1-13 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1, 4-5 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) 2,3 and 6-13 are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

**DETAILED ACTION**

Applicant's election of the species of Figures 1-4B in the reply filed on 07 October 2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Claims 1, 4-5 are readable thereon and will be examined in their full merit. Claims 2-3, 6-13 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

The examiner would like to point out that since claim 7 ultimately depends from non-elected claim 6 it will not be examined on its merits.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okubo et al. (PN 6,199,527) in view of Motohashi et al (PN 5,678,459).

Okubo discloses a generally elongated arm body (See Figure 1 (31)) having first and second ends opposite to each other and prepared by bending a single (See Abstract) plate material to represent a generally inverted U-shaped (See Figures 1, 6D) section including opposite side walls (See Figure 6D (22)) and a connecting wall (See

Figure 6D (24)) bridging between the opposite side walls, an end portion of the connecting wall adjacent the second end (See Figure 6A (c-c)) of the arm body; a cam follower roller (See Figure 1 (18)) rotatably mounted on a portion of the arm body generally intermediate between the first and second ends thereof for engagement with the cam; and a valve drive element (See Figure 1 (28)) mounted on the first end of the arm body for driving the valve; wherein an outer chamfered corner (See Figure 6D chamfered corner of (24)) delimited between an outer surface of the connecting wall (See Figure 6D (24)) and an outer surface of each of the opposite side walls (See Figure 6D (22)) and formed by bending is deformed to represent a plastically deformed portion so formed by means of a plastic deformation technique that the outer chamfered corner represents a small radius (See Figure 6D chamfered corner of (24)) of curvature.

Okubo fails to disclose a threaded hole for receiving a pivot member; the threaded hole is cylindrical; a lock nut and the connecting wall between the plastically deformed portions is about equal in width to the diameter of the lock nut.

Motohashi teaches that it is conventional in the art to utilize the second end (See Figure 4 (4), (4a)) of the arm body being formed with an internally helically threaded hole (See Figure 4 (4), (4a)) for threadingly receiving therein an externally helically threaded pivot member; respective portions of inner surfaces of the opposite side walls (See Figure 2 (6)) adjacent the internally helically threaded hole are formed with corresponding helical threads (See Figure 2 (4a)) and wherein the helical threads occupy respective parts of a cylindrical extension of the internally helically threaded

hole for threadingly receiving the externally helically threaded pivot member (See Figure 2 (P)) which has passed through the internally helically threaded hole; a lock nut (See Figure 1 (4)) fastened to the externally helically threaded pivot member then threadingly engaged in the internally helically threaded hole in the connecting wall (See Figure 2 (4)) and wherein an outer flat surface area of the connecting wall delimited between the plastically deformed portions, which is adjacent the internally helically threaded hole, has a width about equal (See Figure 2 (4), (4a)) to an outer diameter of the lock nut.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized the threaded hole for receiving a pivot member taught by Motohashi in the Okubo device since it would improve pivot member security in the rocker arm.

With regard to the limitations of "formed by bending is deformed to represent a plastically deformed portion so formed by means of a plastic deformation technique", a product by process claim which is rejected over a prior art product that appears to be identical, although produced by a different process, the burden is upon the applicants to come forward with evidence establishing an unobvious difference between the two.

See *In re Marosi*, 218 USPQ 289 (Fed. Cir. 1983)

### Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kotani et al. (PN 6,041,747), Calka (PN 5,720,245) disclose similar rocker arms.

Any inquiry concerning this communication from the examiner should be directed to Examiner Jaime Corrigan whose Carlyle telephone number is (571) 272-4858. The examiner can normally be reached on Monday - Friday from 8:30 a.m. – 6:00 p.m. 2<sup>nd</sup> Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion, can be reached on (571) –272-4859. The fax number for this group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-3700.

JC

January 04, 2005

Jaime Corrigan

*Jaime Corrigan*  
Patent Examiner

Art Unit 3748

*Thomas Denion*  
THOMAS DENION  
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